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COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 41st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 April 2001, at 6.15 p.m.

Chairperson: Mr. DESPOUY (Argentina)

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(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

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The meeting was called to order at 6.25 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (continued) (E/CN.4/2001/4, 9 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61, 63, 64 and Add.1, 65 and Add.1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181 and 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

1. Mr. KHANBIEV (Transnational Radical Party) said that he was one of the doctors who had worked in Grozny under Russian bombardment until resistance had ceased in the town. On 2 February 2000 he had been 1 of 18 medical personnel and 76 wounded people arrested in the locality of Alkhan-Kala. During the night of 2 February they had been taken to a military unit near Tolstoy-Iyurt, where they had been beaten, ill-treated and thrown into a storage room for vegetables, where six of the wounded had died. It was difficult for him to speak of such matters and he would merely say that those had been the most difficult hours of his life: the cruelty and inhumanity towards the defenceless wounded had shocked him deeply. In one of his interrogations, the investigator to whom he had expressed his indignation had replied "You may be a doctor; you might be God, but it does not make any difference. You are a Chechen and we can kill you." During the three weeks he had spent in a "filtration" camp, he had concluded that only a sick mind could invent the types of torture and humiliation practised there. There were currently more than 800 camps and filtration "points" in the Chechen Republic.

2. Mr. ROGOV (Russian Federation), speaking on a point of order, said that the speaker represented a political party and was abusing NGO status. Moreover the terms he was using did not correspond with the internationally recognized territorial status of the parties concerned.

3. The PRESIDENT said that it was established practice that only admitted terminology regarding political status could be used in statements in United Nations bodies. He asked the representative of the Transnational Radical Party to address himself exclusively to matters relating to the agenda item under discussion. On the understanding that that condition would be honoured by the speaker, he invited him to continue his statement.

4. Mr. KHANBIEV (Transnational Radical Party) said that, through the practice of torture in the filtration camps, a mechanism had been established for the destruction of the population of the Republic of Chechnya. In that tragic situation, when independently operating humanitarian organizations had been obliged to cease their activities in the Chechen Republic, when human rights defence mechanisms were paralysed, and the leaders of democratic governments made friendly noises to the Kremlin in exchange for its gas.

5. Mr. ROGOV (Russian Federation), speaking on a point of order, said that in view of the speaker's persistence in using non-diplomatic language and terms incompatible with the territorial integrity of a Member State, it was clearly improper for him to be permitted to continue his statement.

6. The PRESIDENT said that he would invite the next speaker on his list to take the floor.

7. Mr. GUZMAN (International Commission of Jurists) said that the impunity enjoyed by perpetrators of grave violations was a major obstacle to the promotion and protection of basic human rights. The obligation to punish perpetrators was founded on international customary law and had also been affirmed by a number of international bodies, including the Human Rights Committee and the Inter-American Court of Human Rights. Impunity often rested on the granting of amnesties, a device specifically condemned by the Vienna World Conference on Human Rights, and again by the Human Rights Committee. His organization, accordingly, welcomed the decision of the new Peruvian Government, in December 2000, to establish a Truth Commission on violations of human rights and international humanitarian law committed over the two preceding decades. Nevertheless, those violations remained unpunished in consequence of the amnesty laws adopted by the previous Government, which, in the view of his organization, would have to be repealed if the rule of law were to be re-established in Peru. He urged the Commission to resume discussion of the set of Draft Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity.

8. Mr. CHIRI MARQUEZ (Andean Commission of Jurists) said that the situation in Peru was only an extreme case of the general instability of democratic institutions of the region. The weakening of the rule of law in Peru over the preceding eight years had been accompanied by serious violations of civil and political rights. An opportunity to remedy that situation had been opened up by the change of government, but decisive action was required by political and civil society leaders, supported by the international community. After the abuses of the electoral process in 2000 resulting in the re-election of President Fujimori, followed by his fall from power and flight to Japan, an attempt was being made under the transitional government of the President of the Congress, Mr. Valentín Paniagua, to restore the legality of institutions and create conditions for just and transparent elections to be held in April of the current year. The presence and attention of the international community in the political process of Peru had been one of the key aspects of the democratization of the country both before and after the 2000 elections. In the

framework of the negotiations conducted under the aegis of the Organization of American States, judicial reform had been initiated - an essential step towards overcoming corruption and ensuring the independence of the judiciary. Under the Fujimori regime grave violations of civil and political rights had occurred, most notoriously against freedom of expression, political participation and the right to due process, all of which were recognized as fundamental rights by the Universal Declaration. The democratization process in Peru needed the Commission's support to create new monitoring mechanisms and to remedy legislative and institutional deficiencies. In that process the constant vigilance and technical assistance of the international community were essential for the development and stability of the country.

9. His organization was deeply concerned about the defamation charges brought by the Malaysian authorities against the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independent of lawyers. He urged those authorities to fulfil their international obligations and scrupulously respect the consultative opinion of the International Court of Justice. The Commission for its part should make clear its full support for the Special Rapporteur.

10. Mr. TEHRANI (Organization for Defending Victims of Violence) said that freedom of opinion and expression was not only an inalienable right but an essential element in creative thinking. Press freedom was also a powerful mechanism in preventing the abuse of power, which was why the restrictions currently imposed in Iran - a country with a "written culture" - were such a serious obstacle to the introduction of necessary reforms. The serial killings of Iranian writers and intellectuals deserved the most forthright condemnation, and the measures so far taken by the Iranian Government were insufficient guarantees against the recurrence of such atrocities in the future. On the other hand, terrorist activities were utterly wrong in themselves and incapable of effecting any improvement in the human rights situation in the country.

11. In the occupied territories, Israeli military courts continued to violate human rights, and extrajudicial killings, or "liquidations" as the Zionists termed them, continued to be a regular feature of the current crisis. There was also evidence of the extensive use of torture during interrogations by the Israelis. His organization called on the Commission to take effective measures to put an end to such flagrant human rights violations.

12. The violation of civil and political rights of Shia Muslims had risen to a deplorable level in Afghanistan, where the Taliban group were engaging in what amounted to ethnic cleansing of Shias, particularly Hazaras, and especially in the Herat province.

13. Mr. ABDULWAHAB (Arab Lawyers Union) said that the horrendous scale of human rights violations being committed by Israel against the unarmed Palestinian people was reflected in the reports of the Human Rights Inquiry Commission (E/CN.4/2001/121) and of the High Commissioner for Human Rights on her visit to the occupied territories (E/CN.4/2001/114), and was daily displayed on television screens and detailed in other media. It was incomprehensible that such violations should enjoy the support of some great Powers in alliance with Israel, which were also obstructing the international community from extending international protection to the Palestinian people. He called for the convening of a special conference of the High Contracting Parties to the Fourth Geneva Convention to consider such violations. Some major Powers were also obstructing the will of international organizations by prolonging the embargo on the Iraqi

people, which had led to the death of one and a half million people and imposed severe deprivations on others. Now that Libya had carried out its commitment regarding the Lockerbie disaster, the time had also come to put an end to the sanctions imposed on the people of that country. Another depressing phenomenon in the sphere of human rights was the relentless prosecution of the war in southern Sudan. There was a profound link between human rights and democracy, full enjoyment of those rights would not be possible without popular participation in all aspects of life, protection of freedom of expression, and establishment of the supremacy of law.

14. Mr. SISSON (International Fellowship of Reconciliation) said that, although much publicity had been given to the persecution of the Falung Gong sect by the Chinese Government, similar anti-religious policies had long been practiced by that Government in Tibet, where 73 per cent of the 451 known political prisoners were members of the clergy, and thousands of others had been expelled from religious institutions for political reasons. It was ironic that, while the Chinese authorities prided themselves on having funded the renovation of certain well known monasteries that served as tourist attractions, the same institutions were being emptied from within by such policies. Seven years after the 1994 visit to China of the Special Rapporteur on religious intolerance (his then title), his report (E/CN.4/1995/91), raising numerous concerns regarding restrictions on the right to freedom of belief in practice in Tibet, still remained valid. In particular, the Special Rapporteur had drawn attention to the denial of the right of those under 18 to receive religious education in violation of article 14 of the Convention on the Rights of the Child, ratified by China in 1992. He had also strongly recommended that members of religious orders imprisoned for "counter-revolutionary acts" should cease to be banned from returning to their monasteries upon release.

15. The "strike hard" Campaign, launched in 1996, ostensibly designed to combat crime and corruption, had in fact been directed against support for Tibetan independence and allegiance to the Dalai Lama. "Work teams" had also been established to impose restrictions on religious institutions, and approximately two thirds of monks and nuns had received "patriotic re-education" by the beginning of 1998. In addition to expulsions and arrests, the Campaign had resulted in the closure of 22 monasteries and convents. Although the Chinese Government denied promoting atheism in Tibet, a senior Government official had, on 15 November 1998, called for "bold propaganda about Marxist atheism", and, on 8 January 1999, a directive had been issued stating that atheism was necessary to promote economic development in the region. His organization called on the Commission to request China to accept a follow-up visit of the Special Rapporteur, including permission to visit the eleventh Panchen Lama, held incommunicado by the Chinese authorities since May 1995; and to consider the adoption of a resolution urging the Chinese Government to respect human rights in Tibet, particularly the right to freedom of expression and religious belief.

16. Mr. SETYANA (Robert F. Kennedy Memorial) said that, although Indonesia had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the military, police and other Government agencies continued to practise with impunity torture, disappearances, and arbitrary detention against those criticizing the Government. In Aceh, the incidence of such violations had dramatically increased, and, according to the Acehnese Human Rights Organization, there had, from January 2000 until February 2001, been 673 killings, 520 arbitrary arrests, 161 disappearances, and 907 cases of

torture. Similar crimes had been committed in Irian Jaya. His organization urged the Commission: to persuade the Indonesian Government to invite the Special Rapporteur on torture to visit the country; to call for an end to impunity; to persuade the Indonesian Government to reduce its military presence in conflict areas; and to call for the full and immediate implementation of the recommendations of the Working Group on Arbitrary Detention after its 1999 visit.

17. His organization was also greatly concerned about the continuing impunity of human rights abuses in Guatemala, where there had been a systematic failure to implement recommendations of the international community, and where judges, prosecutors, witnesses, lawyers and human rights defenders had themselves become targets of attack. He therefore urged the Commission: to reopen the Office of the High Commissioner of Human Rights in Guatemala; to encourage a return visit by the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers; and to arrange for a visit in the course of the current year by the Special Rapporteur on the right to freedom of opinion and expression.

18. Mr. MORA SECADE (Centro de Estudios Europeos) said that the persistence of the problem of enforced and involuntary disappearances was noted in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2001/68), which, since its establishment in 1980, had transmitted 49,500 cases to Governments, only 3,500 of which had been clarified. Of the 49 countries in which cases were still pending, 13 were in Latin America. The tardiness of Governments in taking action was often due not to difficulties in establishing the whereabouts of victims but to the continuing impunity prevailing in many countries. There could be no independence of the judiciary or of the administration of justice in countries where violations remained unpunished. Thanks to the efforts of the relatives of victims and those of an increasing number of organizations, there was growing international awareness of the scale and gravity of the crime. He urged members of the Commission to take measures to enhance the protection of rights violated by enforced disappearances. His organization supported the proposal of the Latin American Federation of Associations of Relatives of Detained and Disappeared Persons that the Commission should, at its current session, establish a working group for the study of a draft convention on enforced disappearances, and agree on a timetable for its presentation to Governments.

19. Mr. HOREMAN (Conscience and Peace Tax International) said that the members of his organization were conscientious objectors to military service who also objected to being forced by Governments to pay taxes spent for military purposes. As to the latter point, non-payment of taxes could result in imprisonment, seizure of bank deposits and confiscation of homes - as had been the case with several objectors in the United Kingdom and the United States of America. His organization did not object to paying other taxes, merely those relating to killing people. Recognizing the importance of a link between human rights and human duties, members of his organization welcomed the declaration of the Decade of a Culture of Peace and Non-Violence for the Children of the World. That objective would, however, be an empty phrase if children were taught to be non-violent under Governments that denied them the right to be completely peaceful. The Commission's resolutions on conscientious objection, and its decision to compile

a report of best practices of national legislation were welcome, and it was to be hoped that people determined to be peaceful would eventually be freed from compulsion not only to take part in war but also to pay for war preparations.

20. Ms. De LEEUW (South Asia Human Rights Documentation Centre) said that the Islamic Republic of Pakistan continued, under the military dictatorship of General Musharraf, to offer one of the most glaring examples of religious intolerance. The Blasphemy Laws and the Hudood Ordinances, together with governmental and legal structures, elevated Sunni Islam over all other religious beliefs and sanctioned discrimination against non-Muslims and Shiite Muslims. Section 295 C of the Penal Code imposed the death penalty on anyone defiling the name of the Holy Prophet, even by imputation. The July 2000 order reviving the Islamic provisions of the Constitution further criminalized any persons or group whose beliefs deviated from accepted Muslim orthodoxy. The Hudood Ordinances also criminalized extramarital sex, consumption of alcohol and gambling, and stipulated that a non-Muslim's evidence was inadmissible in cases liable for Koranic punishment. Women had particularly suffered under the Ordinances, being frequently (and wrongfully) charged with sexual misconduct. Both the current regime and its predecessor had ignored the 1995 recommendation of the Special Rapporteur on religious intolerance, advising that the Ordinances should not be applied to non-Muslims.

21. Another area of institutionalized discrimination was the electoral system, under which minorities could only vote for candidates not representing districts or constituencies but whole populations of differing minority groups spread across a wide region. It was clear that, under the current regime, religious intolerance would continue, and that, to judge by the suspension of democratic institutions in 1999 and the introduction of the perversely named National Accountability Bureau Ordinance, the culture of governmental and Sunni Muslim impunity would persist and worsen.

22. Mr. ROSSI (International Association for Religious Freedom) said that history showed that great religions could go through periods of degeneracy and, instead of being instruments of peace, tolerance and fraternity, be used to favour violence, hate, exclusion and death. At such times fanatics had, in the name of their religion, violated the rights of ethnic groups and peoples, despising their cultures and religious traditions. In so doing they were giving a false image of their own religion and defaming it. In its 2000 resolution on the defamation of religions, the Commission had expressed its deep concern that Islam was too often associated with violations of human rights and with terrorism. It had to be clearly stated that the Islam of the Koran and of the Prophet Mohammed was a religion of tolerance and freedom, a religion which respected human dignity. Then why did the media often represent Islam as an intolerant religion? The reason lay in the image of Islam projected by extremists, such as those who spread terror in Algeria and killed old men, women and children, or the Taliban in Afghanistan, who destroyed statues which were part of the common human heritage and conducted an absurd policy against women. The same considerations applied to Saudi Arabia, where women in particular did not enjoy many of the universally recognized human rights, and the religious freedom of non-Muslim migrant workers was flouted. The Commission should endeavour to assist Muslims, the majority of whom were not extremists, to combat fanaticism, to denounce discrimination practised under the cover of Islam, and to free themselves from archaic traditions which were contrary to the true spirit of their religion.

23. Mr. DJAMIN (Third World Movement Against Exploitation of Women) said that deficiencies in the judicial system in conflict areas commonly resulted in impunity for perpetrators of human rights abuses. In Aceh province in Indonesia, for example, of 7,700 cases of gross violation of human rights between 1989 and 1999, none had been brought before a court which met international standards. Government and parliamentary efforts since the fall of Soeharto in 1998 had failed to make the judicial and legislative reforms necessary to break the cycle of impunity, and even Human Rights Law No. 26/2000 adopted by the Peoples' Representative Assembly in November 2000 needed to be amended in order to meet international standards of fair trial. Another illustration of the gravity of the situation in the province was that most of the judges from the 12 district courts had requested transfer to other provinces, partly from fear of working in a conflict area. Where, under national as well as international pressure, cases of gross violation had been brought before the courts, most of the defendants had been only low-ranking officials.

24. In the Molucca islands, despite the declaration of a state of civil emergency in June 2000, the security forces had failed to contain communal violence, largely because they were themselves involved. In spite of continuing efforts to establish a truth and reconciliation process, progress ..as jeopardized by an absence of legal protection and a credible local judicial system. There was a clear and urgent need to accelerate legal and judicial reform, and his organization welcomed the recently agreed technical cooperation between the Office of the High Commissioner for Human Rights and the Indonesian Government to strengthen the administration of justice. Without close consultation with credible NGOs and other members of civil society, however, any international cooperation programme was unlikely to bring justice to the victims of human rights violations and their families. He therefore urged the Commission to assist in exerting pressure on the Indonesian Government to amend Human Rights Law No. 26/2000 to meet international standards, and to invite visits from the appropriate human rights mechanisms to Aceh and the Moluccas.

25. Ms. KARTIKA (Australian Council for Overseas Aid) said that her organization continued to be concerned about the issues of independence of the judiciary, law enforcement and impunity in Indonesia under the Gus Dur-Mega regime. Although Law No. 35/1999 had transferred control over administration, supervision and finance from the Executive to the Supreme Court, the independence of the judiciary had not been ensured, leaving the way open to executive interference. The Government had been irresolute and discriminatory in bringing economic criminals to justice, as demonstrated by the cases of former President Soeharto and his son and other high-profile criminals, all of whom had escaped imprisonment. It had also failed to take vigorous action against human rights violators. Law No. 26/2000 establishing a Human Rights Court was flawed. The authority given to the Lower House of Parliament to determine which cases were to be brought before the Court would enable human rights violators to take advantage of their affiliation to political parties, while the transfer of the authority for judiciary review to the Upper House of Parliament would enable the armed forces and the police to block any amendment. Article 47 of the Law, that provided for the adjudication of human rights violations by the Truth and Reconciliation Commission lacked a precise mechanism and clear criteria to determine which body - the Human Rights Court or the Commission - had jurisdiction. Moreover, placing the emphasis on reconciliation would merely strengthen impunity. Nor was any provision made for compensation, restitution or rehabilitation. Further aggravating the situation was the Government's failure to eliminate the continuing influence of the previous

regime on law enforcement agencies and although the police force was no longer under the direct control of the Armed Forces, the Government had no say in the appointment of its Commander-in-Chief, a decision which remained in the hands of the Lower House of Parliament. The Government was also inconsistent in its approach to the proposed drafts of the Internal Security Act and on National Defence, which were intended to revive the role of the Indonesian armed forces in maintaining law and order without provision being made for precise limitations.

26. She urged the Commission and the Office of the High Commissioner to take action through the appropriate mechanisms to ensure that the Indonesian Government: took the necessary steps to ensure the independence of the judiciary; made the ad hoc Human Rights Court independent of the Lower House of Parliament; prevented those associated with the previous regime from influencing the Attorney-General's office; and ensured that the Police was rid of its inherited military character. The Government should also invite the Special Rapporteur on the independence of the judiciary, law enforcement and impunity to visit Indonesia in order to facilitate the reform process.

27. Mr. HILMAN (Netherlands Organization for International Development Cooperation) said that it was regrettable that enforced or involuntary disappearances had become a grave problem in Asia. NGOs had documented 1,687 cases in the Philippines, 60,060 in Sri Lanka, 3,000 in Kashmir, and 175 in Thailand. In Indonesia they had started during the period of 1965-1968 with the New Order Regime's efforts to destroy the Indonesian Communist Party. They had continued during the 1980s, increasing with the declaration of a military-operation zone in Aceh, further increasing after revocation of the zone's status, and from May 1999 to January 2001, 279 people had disappeared. During the attack on the headquarters of the Indonesian Democratic Party in an attempt to disperse the supporters of Megawati Soekarno Putri, there had been hundreds of victims of the violence of the security forces, and 16 people had been declared disappeared. During the 1997-1998 election period 23 pro-democracy activists had disappeared, nine of whom had returned after having been tortured. Out of the total number of 1,034 cases of disappearances documented by NGOs, only one had resulted in prosecution of the perpetrators. His organization therefore requested the Commission to urge the Indonesian Government: to investigate the cases of disappearances and prosecute perpetrators; to invite the Working Group on Enforced or Involuntary Disappearances to visit the country; and to ratify all human rights instruments protecting people from enforced disappearances. The Commission should also facilitate the drafting of an international instrument on disappearances.

28. Ms. REZEKI WIDIANTI (International Federation of Journalists) said that, although the official repression of the media in Indonesia by the Ministry of Information under the former New Order Regime had ceased, free expression continued to be threatened by Government agencies, the military and the security guards of some political parties, including the Indonesian Democratic Party of Struggle and the President Wahid's PKB party. Journalists had been exposed to violence and intimidation, especially in areas of internal conflict, like the eight who had been summoned to the headquarters of the Banda Aceh for having covered a press conference concerning the rape of five Acehnese women by the police. There had been similar incidents in West Papua, involving mob violence, and in the Moluccas. The investigations into murders of journalists in East Timor in 1999 had not been followed up by prosecution of the

soldiers involved. The underlying factors of many of such acts of violence were links between perpetrators and certain political groups enjoying protection by the military and police, and continuing weakness of the Indonesian legal system. Her organization requested the Commission to urge the Indonesian Government to prosecute those intimidating journalists, and to instruct the police and military to give journalists the maximum protection.

29. Ms. LOPEZ (Colombian Commission of Jurists) said that impunity in cases of human rights violations was widespread because the practice persisted in many States of military tribunals taking over investigations from the civil courts. The report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2001/65) had drawn attention to that situation in Colombia, where nearly 100 per cent of human rights violations went unpunished. The struggle against impunity was in fact one of the major challenges facing States attempting to protect human rights. In Colombia a crucial factor in the maintenance of impunity was the failure to apply ruling C-358/1997 of the Constitutional Court, which clearly defined the constitutional limits of military tribunals, but where the tribunals persisted in disputing competence in cases under investigation by the Directorate of Public Prosecutions, particularly when senior officers were involved. The figures showed that in practice transfer to civil courts occurred only in relation to comparatively minor violations or those involving ordinary soldiers or officers of low rank, the single exception being the Nydia Erika Bautista case, in which a high-ranking army officer was involved. Moreover the main provision, relating to civil jurisdiction, in a new military penal code due to come into force in July 2001, had at the last moment been restricted in its application through Government intervention. Her organization requested the Commission to call upon States to take the necessary steps to ensure that perpetrators of human rights violations were brought to trial before civil, independent and impartial tribunals. The Commission should also resume discussion of the set of draft Principles for the Protection and Promotion of Human Rights by Action to Combat Impunity.

30. Ms. YOUNG (Human Rights Advocates) said that her organization urged the Commission to take steps to appoint an independent expert for impunity, as recommended by the Secretary-General in April 2000. Such an expert would be necessary even after the coming into force of the International Criminal Court, since most action against impunity would continue to be taken at the national level. He could prepare an updated version of the set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, ultimately to be adopted by the Commission, and serve as a focal point for the compilation of guidelines on designing effective anti-impunity measures. He would also be able to contribute to ensuring the observance and implementation of international human rights, focusing initially on civil and political rights, including the right to know, the right to justice, the right to a remedy and the right to reparation.

31. Ms. LE VERGER (France Libertés: Fondation Danielle Mitterand) said that increasingly severe restrictions on fundamental freedoms in Tunisia were resulting in alarming overcrowding in prisons, with between 25,000 and 30,000 prisoners distributed over some 30 prisons. The extent of overcrowding was reflected in the figure of between 4,500 and 6,000 held in Tunis' civil prison, which had an admissions capacity of 1,600. The conditions of detention constituted cruel, inhuman and degrading treatment, examples of which were lack of air, infestation by vermin, permission for only one shower a week, denial of the right to wash clothes and a general lack of hygiene. The consequences were outbreaks of violent behaviour, the principal victims of

which were minors, who were exposed to sexual aggressions which were not only psychologically damaging but carried the risk of AIDS as well. Meagre supplements to prison rations were sometimes available to those detained in prisons close to their families; the rest received only soup served twice a day. In addition, political prisoners were exposed to torture, sexual violence and sensory deprivation, with family visits either limited or forbidden. In these conditions it was frequent for Tunisian prisoners to resort to self-mutilation, hunger strikes or even suicide - consequences of a failure by the authorities to honour their international commitments. She drew attention to a similar concern expressed by the Committee against Torture, and the call made to the Tunisian authorities by the French National Consultative Commission on Human Rights to liberate all political prisoners, put an end to the practice of torture, and break the cycle of impunity. She therefore urged the Commission to take all steps at its disposal to put an end to the almost systematic violation of the rights of prisoners in Tunisia, particularly political prisoners.

32. The situation in Turkish prisons was equally alarming. The practice of torture in Turkey had been repeatedly condemned by the European Court of Human Rights, as had the measures taken against hunger strikers. What must be a matter of grave concern for the Commission was the proposal to transfer prisoners to new prisons with single cells, which would expose them to abuse as well as the psychological torture of solitary confinement. Her organization urgently requested the Commission to take all possible steps to persuade the Turkish Government to abandon its inhuman prison policy.

33. Mr. SAFI (International Islamic Federation of Student Organizations) said that the human rights situation in Indian-occupied Kashmir had deteriorated since the Commission's preceding session. In the course of search operations all the inhabitants of a neighbourhood or village were often assembled for identification by Indian informers, and those pointed out taken away for torture and interrogation, some being shot. In the preceding year more that 950 suspects had been killed. Hundreds of thousands more had been wounded or disabled. Thousands of women had been raped, and thousands of Kashmiris were missing or languishing in Indian detention centres, where torture and the use of force were common interrogation practices. The Indian forces routinely flouted legal safeguards against disappearances by moving detainees between detention facilities, failing to keep records or falsifying them, and refusing to produce detainees even when ordered by a court. He urged the Commission to take serious note of those grave violations and to rescue the Kashmiri people from carnage.

34. Mr. HOVEY (Pax Christi International) said that, despite a series of Commission resolutions urging States to recognize the human right of conscientious objection to military service, the work was far from complete. Objectors were still sometimes regarded as disloyal and cowardly, and subjected to discriminatory treatment, including imprisonment or exile. As the late President John F. Kennedy had once stated, war would exist until the day when the conscientious objector enjoyed the same prestige as the warrior. In recent decades there had been such horrendous developments as the use of landmines and the abuse of children in situations of armed conflict, but there had also been stirring examples of the efficacy of non-violent social action, which often required at least as much motivation, training and discipline as did service in the armed forces. His organization eagerly awaited publication of the report of the Office of the United Nations High Commissioner for Human Rights on the best practices in States with regard to conscientious objection. At the beginning of the International

Decade for a Culture of Peace and Non-Violence for the Children of the World, he urged Member States to give legal recognition to conscientious objectors, and to permit them to serve their communities in alternative ways rather than suffer penalties for their commitment to non-violence.

35. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that he had decided that, rather than mention specific cases, he would treat the problem of freedom of expression in the abstract. Some statements by the eighteenth century philosopher Kant were particularly apposite to the question. Emmanual Kant, though always an admirer of the French Revolution, had arrived at the conclusion that the best government was what was termed "enlightened despotism" - which could not remain enlightened unless freedom of expression on all subjects was preserved. It might be objected that the views of an eighteenth century citizen were not relevant to contemporary society, in which the State could make its presence felt in every home through sound and pictures, making censorship in some cases a necessity. It might also be objected that his own organization stood for censorship of racist ideas. The fact was, however, that freedom of expression was an absolute necessity because only what was known could be refuted, and subversive ideas had to be refuted or they would eventually gain ground.

36. Nevertheless, a distinction had to be drawn between on the one hand racist propaganda and incitement to hatred - when censorship was legitimate - and on the other, situations where discussion and exchange of arguments was possible - in which case the imposition of censorship was a mistake. The distinction was a vital one because there was a tendency for States to regard it as a duty of politicians to protect their citizens from lies and prevent them from joining in propaganda hostile to the State. It was for the law to define precisely what was legitimate and what was merely a cloak for crime. Kant had summed the whole problem up in an admirable formula for the guidance of all those who exercised power, a formula which helped to make intelligible the absurdity of seizures of newspapers, withdrawals of passports, disappearances, the refusal to listen to the claims of minorities, imprisonments of members of parliament, of social science research workers - procedures so gross as to be almost burlesque. His formula was that the people should be enabled to be willing to obey - which required free access to knowledge, free expression of opinion and the right and duty to arrive at sound decisions.

37. Ms. SAHUREKA (International Association of Democratic Lawyers) said that, when gross violations of human rights occurred, it was always the voice of the oppressor that spoke most loudly, while the situation of the persecuted was often ignored. That was true of the sufferings of the brave people of the Moluccas. In spite of claims to the contrary, they had been persecuted for more than two years, ousted from their ancestral homes by foreign troops and mercenaries, and exposed to bondage, torture, slaughter and mutilation under the eyes of their loved ones. The forced conversion of thousands of people to Islam had taken place on the islands of Banda, Buru, Bacan, Kesui and Teor, among others, and the islanders had been subjected to such abuses as forced circumcision, genital mutilation, forced marriages, abduction of children and deportation. The so-called reconciliation process was a sham designed to disguise the crimes of the Indonesian troops and their Laskar mercenaries. Her organization called on the Commission to appoint a Special Rapporteur to investigate the crimes against humanity in the Moluccas. She also appealed to it to help to locate and return six missing children, whose names she would make available to the secretariat.

38. Mr. SKURATOVSKYI (Observer for Ukraine), exercising his right of reply, said that there could be no doubt about the importance of a full and transparent investigation into the death of the journalist Heorhiy Gongadze, which was a tragedy both for the man himself and for his family. The law-enforcement agencies of Ukraine welcomed cooperation with outside bodies, including the United States Federal Bureau of Investigation and European institutions in accordance with Parliamentary Assembly Recommendation 1497 (2001) of the Council of Europe. His delegation believed, however, that it would be premature to formulate conclusions relating to the case prior to completion of the investigation and decision of the court.

The meeting rose at 9 p.m.